
Appeal Decision

Site visit made on 14 April 2026

by **C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th July 2026

Appeal Ref: 6004922

Three Hares Inn, Main Street, Bilbrough, Selby YO23 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Wellington Pub Company against North Yorkshire Council.
 - The application Ref is ZG2025/1154/FUL.
 - The development proposed is change of use from sui generis to residential including internal and external alterations and creation of new parking area.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal results from the failure of the Council to determine the application within the prescribed period. Within its evidence, the Council has indicated that it would have refused planning permission, and the reasons given have informed the main issue.
3. An appeal relating to the change of use of the appeal property was considered and dismissed by an Inspector in March 2025¹. The main issue in that case reflects that in the case before me and there have been no substantive changes to the proposal in the interim period. I have therefore had regard to this decision.
4. As the proposed development is in Bilbrough Conservation Area ('CA'), I have had special regard to the duty set out at section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Although the appeal site is within the CA the limited extent of the external works is such that there would be no substantive changes to either its character or appearance. Therefore, I am satisfied that the significance of the CA would be preserved. This aligns with the conclusions of the previous Inspector.

Main Issue

5. The main issue is whether there is sufficient justification for the proposed change of use and the loss of a community asset with regard to viability and marketing.

Reasons

6. As identified by the previous Inspector, The Three Hares Inn (the Inn) is a two storey, brick built, detached property with a pantile roof. It occupies a rectangular

¹ APP/U2750/W/25/3358695

shaped plot which is situated between Main Street and Back Lane. The building fronts onto Main Street. Residential dwellings flank and face it. A pub garden is situated at the rear of the building, beyond which is a large car park which has a vehicular access from Back Lane. The car park does not form part of the appeal site.

7. I understand that the Inn was nominated by Bilborough Parish Council as an Asset of Community Value ('ACV') in 2020. This listing expired on 6 July 2025. Although it appears that a subsequent application to relist the Inn was rejected, the Council has confirmed that it was relisted as an ACV on 5 November 2025 and will remain so until 2030.
8. The ACV process means that when a listed asset is made available for sale, that a moratorium of up to six months may be invoked in order to provide local community groups with an opportunity to raise finance and to make a bid to buy or lease the asset on the open market.
9. The previous Inspector concluded that there was insufficient justification for the proposed change of use and loss a community asset with regard to viability and marketing, and that in doing so, the proposal was in conflict with Policy S3 of the Selby District Local Plan 2005 ('LP') and Policy SP14 of the Selby District Core Strategy Local Plan 2013 ('CS').
10. The present appeal includes additional information, which was not before the previous Inspector, as well as some discussion in relation to the conclusions reached in the previous decision. Those areas subject to new information or discussion are the focus of my decision. Where no new information or discussion is relevant, I have no reason to disagree with the previous Inspector's conclusions in those respects.
11. The main documents which are before me and were not before the previous Inspector are a "Report and Appraisal" by Barry Crux and Co ('the Crux report') dated 18 September 2025 and a document produced by Thomas E. Teague providing commentary on the previous appeal decision and dated 7 November 2025 ('the TET document').
12. Both the appellant and the previous Inspector adopted a 10-mile radius in relation to the catchment of the Inn, in line with the CAMRA Public Viability Test advice. There is no dispute that this catchment would include York, Boston Spa and Tadcaster. The previous Inspector adopted a population figure within this radius based upon the 2021 Census of around 303,600 people. The appellant has now posited a lower figure of around 280,000 people, however the evidence basis for this is unclear.
13. Given the 2021 Census was a snapshot in time and its nature means that it is reliable, and that I have been presented with no substantiated reason why the population in the interim period would have been likely to decrease by around 25,000 people, I have no reason to depart from the previous Inspector's conclusions in this respect.
14. I was able to view the route between the Premier Inn to the south of the A64 and the appeal property. It is the case that there is no footway for part of the distance and that the route is unlit. I am also aware of the fatal incident involving a pedestrian walking to Askham Bryan College after visiting the Inn.

15. However, these factors do not rule out custom for the Inn being generated by guests at the Premier Inn or students or staff at Askham Bryan College. The distances are not far and notwithstanding the fatal incident, of which hotel guests may well not be aware, the unpaved elements of the routes are along what otherwise appear to be relatively quiet rural lanes. Additionally, I saw that the route to Colton from the hotel is of a similar nature and in any event, it is common ground that Ye Old Sun Inn in Colton is not operating as a public house. Although it is possible that it may do so in the future, there is no certainty that this would occur.
16. In this context, the route to the appeal property from the hotel although not ideal, would not be wholly unattractive to visitors to the area, and given the relatively short distance of unpaved route and absence of alternative options, the possibility of customers walking from the hotel cannot be wholly dismissed.
17. In terms of Askham Bryan College, the appellant has identified that around 500 students are aged over 18 and that the college has a bar on-site, and that the Nags Head Inn in Askham Bryan College is within safe walking distance. This is not disputed by the Council.
18. However, I am mindful that the previous Inspector took account of third-party representations that indicated that students associated with the College, at one time, were contributing to the viability of the Inn. Given the evidence before me, I cannot be certain that trade from the college would be likely to form a significant element of future trade at the pub, however, again it cannot be wholly ruled out as a contributing factor.
19. Equally, I accept that both Thorp Arch Trading Estate ('TATE') and Marston Business Park ('MBP') are served by other, closer food and drink outlets, and that significant regular trade at the Inn would be unlikely to be generated from these locations, but again this cannot be wholly dismissed.
20. I acknowledge that there is a difference between population and catchment; it logically follows, for a number of reasons, that not all of the population would be potential customers for the Inn. There are also locational reasons why parts of the population would be less likely to visit the premises. However, the presence of closer, alternative public house provision does not wholly exclude such population from the potential customer base as people are not obliged to make use of their closest facilities and may travel some distance to take advantage of specific food or drink offer, events or convenience of location when meeting a group of people. This, in part, explains the size of catchment adopted by CAMRA for rural public houses.
21. In addition to the village itself, where it is evident that there is community support for a public house, I have found above that both the Premier Inn and Askham Bryan college cannot be dismissed as potential drivers of additional customer base for the appeal property. Both TATE and MBP are less likely to be contributory factors, but again, having regard to market choice cannot be wholly ruled out. This equally applies to residents in other local villages, or even potentially York itself. While it is the case that not all of the local population could be considered likely to form the customer base to the Inn, it has also not been shown that the level of customer support is likely to be so inherently low that it would render the business fundamentally unviable.

22. No previous accounts, other than filleted summaries from 2018 and 2019 are available in relation to the appeal property. It is stated that they indicate deficits of £15,503 and £49,617 at that time. However, no context to these figures is available. That detailed accounts are not available is a matter of fact and there are genuine reasons for this, including that such information is not within the control of the appellant.
23. I acknowledge that this is not unusual and that the industry relies, to some extent, on estimations in the valuation process as a result. However, regardless of the reasons and explanations for a lack of regard to previous accounts, however genuine these reasons may be, this remains a point of weakness in considering the viability and vitality of the Inn, as there is no demonstrable context to the Inn ceasing to operate in the first instance. Its closure could be attributable to a number of factors, and while the operating climate could have been a contributing matter, it has not been shown, with any degree of certainty that this was the case.
24. While the lack of accounts does not indicate that the pub was viable business, it also does not demonstrate that it was not. The Crux report suggests that the fact that the last tenant chose not to renew the lease when it expired in 2023, or was unable to sell the lease, indicates a business that was not prospering, however this may have occurred for a number of reasons, and does not conclusively indicate that the business was inherently unviable or would be so in the future.
25. Previous accounts would provide both context to the original closure of the premises, as well as provide detailed information upon which to base future trading estimates and likely profits. While there is no policy requirement to provide such accounts, it is inevitable that any assessment of past or future viability of the business is weaker without taking account of them, and the weight that can be afforded to such estimates is therefore reduced, despite their use within valuations.
26. The TET report considers the possibility of diversification of the business but dismisses this on the basis of the size and shape of the overall plot, and that building costs have affected the viability of purpose-built letting rooms. It has not been substantiated that new letting rooms would inevitably change the atmosphere of external trading spaces or would be unacceptably overbearing. Furthermore, there is no detailed consideration of alternative schemes nor consideration of uses other than letting rooms. It has not been shown that the diversification of the business would be an unrealistic option.
27. The appellant's evidence is consistent in identifying that investment would be required in order to make the Inn suitable for operation and in order to accommodate a food-led business model.
28. The most recent Crux report identifies that the level of capital investment required in order to bring the structure and fabric up to proper repair and conditions, along with refurbishment of internal trading areas and living space would amount to £250,000. This figure makes no mention of working capital or stock-in-trade. It also specifically excludes works to external areas. The report concludes that costs in excess of £300,000 would likely be expected. Having regard to this, the previous position of the Council and interested parties in taking £200,000 figure in reaching their position in relation to the terms of the proposed lease, was not unreasonable.
29. The Crux report acknowledges the difficulties in terms of comparisons on a day-to-day basis in relation to lease terms and comparables. Additional relatively light-

touch comparison has been undertaken in respect of The Lord Addingham, The Friars Head and The Abbey Inn, all of which I understand have been successfully let on similar terms to those under which the appeal property was marketed.

30. However, in comparison to the information that was before the previous Inspector, there is no significant additional analysis before me which would lead me to conclude that the context of all of these examples are so directly comparable to the appeal property that they would lead me to depart from the conclusions of the previous Inspector in this respect. It has not, therefore, been shown that the premises has been marketed on reasonable terms.
31. It is stated that in terms of viability, that a profit of between £40,000 and £48,600 would be expected, and that such levels would be unlikely to tempt the market in terms of reletting the pub. Be this at it may, this is an estimation made upon a number of assumptions and on the basis of specific lease terms. While the conclusion at the level of profit identified may be a reasonable one, the weaknesses in the assumptions that I have identified means that I cannot be certain that the premises would be inherently unviable. Moreover, it has not been shown that the property has been marketed on reasonable terms.
32. Therefore, the proposal would lead to the loss of a public house and community asset without sufficient justification, contrary to LP Policy S3 and CS Policy SP14. These policies seek to resist the loss of public houses unless it can be shown that the business is no longer viable, has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market on reasonable terms, and to support local services outside of defined town centres.

Other Matters

33. The Council has raised concern in relation to the location of proposed parking within the root protection area of Tree T8. However, this is an issue that could be resolved through the use of suitable worded planning condition to secure an alternative parking layout. This matter is not, therefore, determinative in my decision.

Conclusion

34. For the above reasons, the proposal would conflict with the development plan when read as a whole. There are no material considerations which indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

C Harding

INSPECTOR